

## Executive Summary of FAA Submission to Congress Concerning Its Collective Bargaining Proposal to NATCA

### Background

Congress enacted “personnel reform” for the Federal Aviation Administration (FAA) ten years ago, as part of the 1996 transportation appropriations act. The law required the Agency to put in place a new personnel system by April 1996. The purpose of the legislation was to enable the Agency to create a more flexible system that would give the FAA a greater ability to attract and retain highly qualified technical personnel at market-based rates. The reform was also intended to foster accountability by allowing the Agency to link employee pay to individual and Agency performance.

In 1996, as part of FAA reauthorization, the Agency’s statute was amended explicitly to bar the Administrator from negotiating with labor unions over compensation and benefits, except under limited circumstances in which the Agency was making changes in the personnel system first put in place in April of that year. Even in such bargaining, the parties were directed by Congress to “use every reasonable effort to *find cost savings and to increase productivity*” for each bargaining unit. The same law also provided that in the event the negotiating parties reached impasse, then following federal mediation, the Administration could implement its proposal 60 days after submitting its proposal to Congress. (49 U.S.C. §§ 106(l) and 40122(a)).

As the Agency began to implement the new law, these provisions were liberally interpreted so as to allow the Agency to bargain over wages with each of its unions on an ongoing basis. In 1998, the FAA signed a long-term contract with the Agency’s air traffic controllers. Despite promises that the agreement would cost just \$200 million in increased compensation over its first three years, all of which would be offset by gains in efficiency, the contract actually cost many times that amount and the gains did not materialize. With the compounding effect of mandated annual increases, controller compensation has far outpaced the rest of the FAA as well as the private and public sectors as a whole. The contract also unwisely tied the Agency’s hands on key management prerogatives (like scheduling and staffing levels) and imposed expensive and wasteful practices on the Agency.

The FAA and the National Air Traffic Controllers Association (NATCA) began negotiations to replace the current agreement in July 2005. In the meantime, all the key terms of the contract (including automatic pay hikes) continue as a result of an “evergreen” clause. Despite extensive negotiation over nine months, including four weeks of mediation with the Federal Mediation and Conciliation Service, the Parties failed to reach agreement on several proposed articles affecting the compensation and benefits, as well as work rules, for three NATCA bargaining units. Therefore, as required by law, the FAA is transmitting its proposals, along with NATCA’s proposals and objections, to Congress.

## Compensation and benefits

As a result of the 1998 agreement, the average controller in fiscal year (FY) 2005 enjoyed a compensation package worth \$165,900, including \$113,600 in base salary and locality, \$14,900 in premium pay, and \$37,400 in benefits. This represents a 75% increase since that contract was put into effect, which has left controller compensation 42% higher than all other FAA employees, including aviation safety inspectors, airway technicians, test pilots, and other professionals. The escalation in controller compensation has resulted this year in more than 1,600 controllers making more in pay than each member of Congress. The cost of this escalation is huge: since the current contract took effect in 1998, faster pay growth for NATCA compared to the rest of the Agency has cost taxpayers some \$1.8 billion cumulatively in extra compensation. Our annual payroll (personnel and benefits costs) for air traffic controllers jumped from \$1.4 billion (1998) to \$2.4 billion (2005). And as productivity gains bargained for in 1998 never materialized, controller labor costs per flight steadily rose from \$83 to \$131 by 2005.

Whether or not such dubious financial results could have been predicted, the Agency clearly cannot afford to keep the current contract going forward. We must make significant and meaningful change in the wage structure. The Agency's goal with its final proposal is to introduce a revamped pay system for air traffic controllers that is affordable given the Agency's financial outlook, links future pay increases explicitly to Agency and individual performance, and allows us to effectively recruit thousands of new hires to replace controllers retiring over the next several years.

In constructing a new pay system, we recognized that we needed to find a way to balance the legitimate interests of current employees while allowing the Agency to transition to a new, market-oriented pay system. That's why **our proposal preserves the salaries and benefits of all incumbent employees**. In fact, despite the Union's public relations claims,<sup>1</sup> we have never demanded salary cuts or reductions in the generous benefit package controllers get, even as the airline industry we serve has repeatedly reduced wages and benefits for all of its skilled professionals.<sup>2</sup>

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<sup>1</sup> Unfortunately, a NATCA radio campaign grossly mischaracterizes the Agency's last offer, asserting that "the FAA wants to slash salaries up to 30 percent and then impose a 5-year pay freeze that would worsen the staffing crisis and could put safety at risk." This is patently false: Under our proposal no controller will take a salary cut, much less "30 percent."

<sup>2</sup> The Air Transport Association has calculated the reduction in total salaries and fringe benefits at the six largest domestic air carriers from 2001 to 2005 at \$8.336 billion. (2001 was the peak compensation year for airlines.)

Specifically, under the Agency's final contract offer:

- We will implement a new air traffic pay plan with salary bands that line up with the rest of the FAA workforce, while keeping existing controllers essentially whole no matter where they fall with respect to the bands. Our final offer – indeed, every offer we made in negotiations – explicitly “grandfathers” the annual salary (base and locality pay) of every controller to the extent it exceeds the new caps under the revised pay plan.<sup>3</sup> We believe this is a major concession on the Agency's part, as more than 56% of our current controller workforce already enjoys base salaries in excess of GS-14 maximums and in excess of the corresponding pay bands for FAA's senior managers.
- The revised pay plan is designed to be attractive to potential new hires as well, who will be joining public service in the thousands over the next several years. The plan was derived by taking the pay system used to compensate most other FAA employees and structuring it to match the classification levels in the controllers' current system. The resulting pay scales are still generous. Under our proposal, the average controller hired in FY 2007 would have a base salary, including locality, of \$84,200, after five years on the job. With premium pay, average annual cash compensation would be \$93,400 and total compensation (including benefits), \$127,600. We are confident that remuneration of new hires at these levels – which will still be above the rest of the FAA workforce -- is more than adequate for recruitment and retention.
- Our pay plan links future increases to agency-wide and individual performance, as is already the case for most of the FAA under our “core compensation” plan, the cornerstone of our personnel management system. We will no longer guarantee automatic increases above the civil service average even when the FAA fails to meet its performance objectives – as the current contract unwisely does. We will no longer raise the maximums in every pay band each year regardless of market data, as the current contract requires. These practices have created a growing pay inequity between controller salaries and those of other FAA employees – a gap that now stands at \$48,700 per employee up from \$18,700 in 1998.
- Contrary to the Union's assertions, there is no “pay freeze” for anyone under the Agency offer. Controllers with salaries above the pay band will still receive locality increases in their salaries. They will also be eligible under the FAA's personnel management system for the two other primary annual increases, an organizational success increase (OSI) and a superior contribution increase (SCI). Like other employees, if they are above the bands, then they will receive lump sum cash awards equal to the full amount of any foregone agency-wide increase or individual

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<sup>3</sup> When NATCA complains of our proposal “slashing salaries,” they are apparently referring to the Agency's proposed reductions in nominal pay bands not actual compensation. Of course, reductions in these pay bands will have virtually no effect on the current workforce, who will be grandfathered at their existing salaries.

merit increase. The net result? Our projections show that over the proposed five-year term of the contract, the average current controller can expect an increase in salary and locality from \$113,625 to \$122,500 and in cash earnings (including premium pay and performance awards) from \$128,600 to \$139,900. Of course, existing employees with base pay below the new ceilings, as well as all new hires, will remain eligible to receive all annual increases as adjustments to their base pay.

- Premium pay will be reduced modestly from current levels under the Agency's final proposal, which protects 82% of the average controller's premium earnings during the life of the contract. All controllers will continue to be eligible for overtime, holiday, Sunday, night differentials, and on the job training instructor pay (OJTI) at the existing rates. Controller Incentive Pay (CIP), an extra locality adjustment unique to the Air Traffic Organization, and only applicable to about a third of the controller workforce, will be phased out evenly over five years. The current CIP program has failed to accomplish its objective of providing incentives for hard-to-staff facilities, while costing taxpayers \$29.5 million a year.<sup>4</sup> We will also discontinue one other premium that has produced little benefit for the taxpayer, Controller-in-Charge (CIC) pay. Both Congress and the Inspector General of the U.S. Department of Transportation have been highly critical of the CIP and CIC premium programs.
- We will maintain all benefits currently provided to controllers, worth on average \$37,000 a year – and more for controllers hired since 1986 when the Agency increased the annual retirement contribution rate for employees in the Federal Employees Retirement System (FERS), now at 23.1% of salary (about twice that of the rest of FERS participants). But in doing so, we could not accept NATCA's multiple demands for new, special perquisites that we don't provide to other FAA employees, including private school tuition for dependents outside of the continental U.S., a substantial child care subsidy, and up to \$60,000 per controller in student loan repayments. Nor could we adopt the Union's proposal that controllers be allowed to "sell back" to the taxpayer all unused annual leave.
- Pay rules that set pay for controllers will be reformed so that controllers' pay is commensurate with the level of work they are performing. The current rules that set pay when controllers are in training, when they voluntarily transfer between facilities, and when their facility's classification level is upgraded are designed to provide them with significant pay increases before they demonstrate their competence in different positions. When a facility's classification level is downgraded, the current rules allow for controllers to retain their higher pay even though they are doing less complex work. The Agency's proposals are designed to ensure that controller pay is commensurate with the level of work being performed.

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<sup>4</sup> The CIP cost is for both the Air Traffic Control Specialist and Traffic Management Coordinator/Specialist bargaining units.

The Union's final proposal on pay and benefits did not meet the Congressional direction that the FAA replace automatic pay increases with a performance-based system. Nor does it address the Agency's pressing need to restore internal pay equity. While styling its last offer as a large "pay cut" that would have somehow "saved" the Agency \$1.4 billion over five years, NATCA's actual proposal would perpetuate nearly all of the objectionable pay provisions (as well as several antiquated work rules) in the current agreement. This combination makes their proposal unaffordable to the taxpayer and unfair to the rest of the FAA's highly skilled and equal talented workforce.

The Union's proposal would not actually cut anyone's pay. Instead, the nominal pay band minimums would temporarily drop by less than 3 percent, and maximums by less than 10 percent, effectively keeping the rich pay scales almost where they are today. The effect of this offer is to deprive the taxpayer of most of the benefits from bringing in new employees at more market-oriented rates. In the meantime, payroll costs for all air traffic controllers would continue to rise. Worse, after the term of the agreement, the Agency would return to the system of guaranteed pay hikes and automatic increases in salary bands – with no relation to performance – that already has cost taxpayers \$1.86 billion more than would have been the case if controllers had simply received raises at the same rate as their peers in the rest of the Agency. And the gap between controllers and all other FAA employees would continue to increase dramatically under NATCA's demands.

#### Other changes in the personnel management system, including work rules

In an era in which demands on the system are growing while revenues per operation are shrinking, we must take advantage of every opportunity for greater productivity. Our final offer keeps intact most of the benefits of the current working environment that reflect the unique demands placed on air traffic controllers, while ending practices that simply increase taxpayer expense with no offsetting improvement. For these reasons, the Agency and NATCA reached impasse over FAA's proposal to modify archaic work rules that, in our judgment, have impeded the efficiency of our air traffic operations. This includes several contract provisions that decrease scheduling flexibility and needlessly increase overtime expenditures.

For example:

- The current agreement severely limits the Agency's flexibility to decrease staffing levels on holidays when traffic declines from daily norms; thus, controllers who are scheduled to work such days receive double pay regardless of whether they are ultimately needed.
- The agreement guarantees every controller (regardless of seniority) two consecutive weeks of vacation, usually during the height of the busy summer travel season; as a result, the Agency must pay overtime rates to fill out its daily schedule. NATCA not only wants to retain this entitlement, they would make it

more expensive for the taxpayers. The Union's proposal would require the Agency to buy back any unused annual leave that could "not be scheduled" to meet the controllers' vacation requests.

- The current contract provides controllers a break every two hours regardless of workload, staffing, and traffic levels. The Agency has no objection to the idea of breaks at regular intervals, but breaks should be determined by supervisors based on the actual operational environment. Moreover, having such a hard and fast requirement in the contract has been the font of literally thousands of Union grievances. Controllers regularly file grievances if the Agency supervisor keeps the controller "on position" one minute over the two hour limit.
- The current contract permits the Agency to assign tasks to controllers that have a reasonable relationship to air traffic control, such as developing new operational procedures. The Union's proposal, however, would eliminate this flexibility and preclude the Agency from assigning any duties to controllers that do not consist of the separation of aircraft. We believe that facility managers and supervisors must have the right to assign operational duties (or paid administrative tasks) as required for the efficiency of the National Airspace System.

The Agency was able to agree with the Union on many important issues during the course of extensive negotiations and mediation. Nonetheless, several fundamental issues remain unresolved. On the key economic issues, the Parties' competing offers are not close: a \$600 million gap separates the offers over five years, and that number increases to \$ 3.7 billion over ten years principally because NATCA's proposal would perpetuate the current pay system of excessively generous pay bands and automatic, above-normal pay growth after the initial term ends.

Our proposals are based solidly on a clear Congressional mandate to implement a personnel system that is both cost efficient and meets the unique needs of the Agency's workforce. To that end, the Agency has proposed to extend to the controller workforce a salary structure in which pay increases reflect both organizational and individual performance. At the same time, our proposal restores management's prerogatives and responsibilities with regard to directing FAA operations.

After careful consideration, the Agency concluded that the necessary cost savings and efficiencies would not be achieved by agreeing to the Union's proposal. In the end, as much as the FAA would have preferred to have reached a comprehensive agreement, the Parties have been unable to do so. The Parties are at impasse. Thus, under the process established in the Federal Aviation Act and discussed earlier, the FAA must submit both sides' proposals to Congress for a 60 day review before acting to implement the Agency's terms.

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